

ARTICLE XIII A GROUNDWATER PROTECTION DISTRICT (gp)

Section 1201A G-P Groundwater Protection District

In addition to the general goals listed in the statements of Purpose and Community Development Objectives, it is the purpose of this Article to protect a uniquely sensitive and valuable groundwater resource area, defined by a carbonate geologic formation identified in the East Marlborough Township Comprehensive Plan, against land development patterns that would deplete the groundwater supply through excess demand, threaten its quality through wastewater pollution, inhibit the recharge capability of the area through exorbitant impervious surface areas, and increase the dangers of land subsidence and sinkholes.

The GP, Groundwater Protection District shall be deemed an overlay on the applicable zoning districts, and shall be shown on the East Marlborough Township Groundwater Protection Overlay map. In the GP Overlay District, the following regulations shall apply, unless superseded by a more stringent regulation of the base zoning district:

Section 1202A Use Regulations

A. A lot or premises may be used in accordance with the use regulations or the base zoning district in which it is situated.

B. Up to 75% of the common open space established for a PRD or cluster development in an adjacent zoning district.

Section 1203A Area and Bulk Regulations

The areas and bulk regulations of the base zoning district shall apply to all land situated in the G-P overlay district.

Section 1204A General Provisions

1204A.1 Definition of Groundwater Protection District

The Groundwater Protection District coincides with the carbonate or limestone geologic formation and includes all of the following areas:

A. The areas designated and identified in the East Marlborough Township Comprehensive Plan and the limestone area; and

B. All lands containing class 3 soils for urban suitability as identified in the soil legend for Chester County soils, surveyed and published by the U.S. Department of Agriculture. Class 3 soils consists of all Hagerstown Silt Loam (ha), all Conestoga Silt Loam (cm) and all Hollister Silt Loam (Ho), which soils are associated with underlying carbonate or limestone geologic formations.

(The source of these designations is the U.S. Soil Conservation Service. Soil Survey. Chester and Delaware Counties, Pennsylvania, May 1963.

1204A.2 Zoning Overlay Map

The Groundwater Protection Map of East Marlborough Township, based on the boundaries described in Section 1204A.1, shall be deemed an overlay on the otherwise applicable zoning districts as delineated on the Township Zoning Map. Should the Groundwater Protection District be declared inapplicable by reason of amendment by the Board of Supervisors, or interpretation of the Zoning Hearing Board or Court of Competent jurisdiction, the zoning applicable to such tract shall be deemed to be the district in which it is located without consideration of this Article.

1204A.3 Rules of Interpretation of District Boundaries

The boundaries of the Groundwater Protection District shall be determined by scaling the distances on the GP Overlay Map. Where interpretation is needed as to the exact location on the boundaries of the District as shown thereon, as for example, where there appears to be a conflict between a mapped boundary and actual field conditions, an initial determination of the exact boundary of the carbonate area shall be made by the Township Engineer and a written report made to the Board of Supervisors.

1204A.4 Compliance

No structure, land or water shall hereafter be used or developed and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

1204A.5 Abrogation and Greater Restrictions

It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.

1204A.6 Warning and Disclaimer of Liability

In carbonate areas, development of land creates the potential for certain problems, including (1) greater probability of onsite sewage disposal system malfunctions; (2) greater chance, owing to such malfunction, of contamination of bedrock aquifers; and (3) potential for structural failure due to land subsidence.

This Article shall not create any liability on the part of East Marlborough Township or any officer or employee thereof for any damages that result from reliance on this Ordinance or any administrative decisions lawfully made hereunder.

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Section 1205A Procedures

Prior to the issuance of a zoning permit for the construction of any principal building within a GP Overlay District, the land owner shall ensure that the proposed construction, and any sewage effluent associated therewith, shall be in compliance with the performance standards set forth in Section 1206A hereof. Where the proposed development requires subdivision or land development approval prior to issuance of a zoning permit, the procedures to ensure compliance with the performance standards shall precede or accompany the preliminary plan application. The following specific procedures shall be followed.

A. The landowner shall notify the Township Secretary of his intent to develop property within the GP Overlay District, and shall submit a map which can be based upon a tracing of existing Chester County Tax Map information, outlining the area proposed for development.

B. The Secretary shall notify the Township Engineer of the Landowner's intent to develop, and forward to him a copy of the plan submitted.

C. The Engineer, after reviewing the existing aerial photos, soils, geological and related data available to him as it may pertain to the subject property, shall make a site inspection of the property. The time for the site inspection shall be arranged by the Township Secretary for a mutually convenient time, to enable the landowner to accompany the Township Engineer. In addition, the Engineer will request the presence of a member of the staff of the Chester County Health Department and/or Soil Conservation Service, if in his opinion their assistance in the site inspection would be helpful. The landowner is encouraged, but not required, to engage a qualified engineer to be present at the site inspection.

D. At the site inspection, the Township Engineer, using all available data and with such assistance as is needed, shall determine the presence or absence of karst surface features of the site, and locate the same if present. In particular, the following features shall be located, if present on the site:

1. Closed depressions
2. Open sinkholes
3. Seasonal high water table indicators
4. Outcrops of bedrock
5. Limestone fragments in soil
6. Unplowed areas in plowed fields
7. Surface drainage into ground

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8. "Ghost lakes" after rainfall

9. Land surface mottling (from air photos)

E. Based upon the site inspection, the Engineer shall determine what further testing should be done by the landowner to ensure compliance with the performance standards set forth in Section 1206A. The Engineer shall notify the landowner of what further testing, if any, shall be required. Testing methodology may include, but need not be limited to, soil permeability tests and tests to determine depth to bedrock. Testing methodology required by the Engineer shall be reasonable under the circumstances, including (1) the scale of the proposed development and (2) the hazards revealed by examination of available data and site inspection.

F. The landowner shall cause the additional testing, if any, to be effected and shall submit test results to the Engineer.

G. The Engineer shall report to the Board of Supervisors, with a copy to the landowner, his opinion concerning the capability of the site to support the proposed development in a manner in which the risks attendant to development in carbonate areas are either eliminated or minimized. The report shall delineate areas from which on-site sewage disposal shall be excluded or restricted, if any, and shall contain recommendations for minimizing the runoff of storm water from the site. If the proposed development requires subdivision or land development approval prior to issuance of a zoning permit, the report may contain recommendations for site planning, including (1) the use of lot averaging or cluster development technique, and/or (2) a reduction in density from the maximum density otherwise provided for herein.

Section 1206A Performance Standards

A. No zoning permit shall be issued for the construction of a building or other structure utilizing a means or location of sanitary sewage disposal which, owing to soil conditions, water table elevation, depth to bedrock or other factors, would create a risk of sewage effluent entering the groundwater without adequate filtration.

B. No zoning permit shall be issued for the construction of a building or other structure the location of which would create a risk of structural damage from future land subsidence.

C. No zoning permit shall be issued for the construction of a building or other structure unless the rate of storm water runoff for the lot (or, if subdivision or land development is required before issuance of a zoning permit, for the tract as a whole), during any storm up to one in 100-year frequency, shall not exceed that which would have occurred from the land prior to development.

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D. Issuance of a zoning permit may be made conditional upon the landowner providing facilities to minimize the increase in total storm water runoff over and above that which would have occurred from the land prior to development, such as retention berms or basins which provide for percolation of storm water, cisterns, french drains, seepage pits and seepage terraces.

Section 1207A Prohibited Activities

Notwithstanding any regulations contained herein to the contrary, the following activities are specifically prohibited in the Groundwater Protection District:

A. The below ground storage of heating oil, gasoline, chemical solutions or other substances which, if released from a container, would constitute pollutants to groundwater.

B. The filling of sinkholes with any material other than clean fill or rock.

Section 1208A Costs

The Board of Supervisors of East Marlborough Township specifically finds that it is equitable and in the public interest for the Township to bear a portion of the costs associated with the review, field testing and reporting procedures prescribed in Section 1205A. Hence, the costs thereof shall be borne as follows:

A. The cost of data study and site inspection by the Township Engineer and the subsequent report as specified in Section 1205A, C, D and E shall be equally divided between the Township and the landowner.

B. The cost of any additional testing and reports as specified in Section 1205A, F and G shall be divided so that the Township will bear 20% of the cost and the landowner shall bear 80% of the cost.

C. East Marlborough Township shall not be responsible or bear any of the cost of any other engineering or testing expenses and in the event that the landowner wishes to engage his own engineer, the landowner shall be responsible for all costs thereof.

ORDINANCE 79-4 adding Article XIIA - Groundwater Protection District was approved by the Board of Supervisors of East Marlborough Township on October 30, 1979.